UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

APRIL 14, 1989

Mr. Robert W. Oleszko
Vice President, HazMat Environmental Group, Inc.
P. O. Box 676
Buffalo, New York 14217

Dear Mr. Oleszko:

This letter is in response to your letter of January 6, 1989, in which you request an official interpretation of the regulatory status of ignitron tubes containing mercury, when sent for reclamation.

I understand that your inquiry is a follow-up to a previous official interpretation made by the Environmental Protection Agency (EPA) to Mr. Philip E. Gerwert, Manager, Industrial Waste and Toxic Substances, General Motors Corporation, concerning Resource Recovery and Conservation Act (RCRA) regulations as they relate to various aspects of recycling mercury (copy attached). Our interpretation regarding the regulatory status of ignitron tubes has not changed.

As was indicated in the letter to Mr. Gerwert, when a material (e.g., an ignitron tube) is being sent for reclamation, it is necessary to determine what type of secondary material it is in order to define the material as a solid waste under Subtitle C of RCRA. In the above referenced letter, the Agency determined that ignitron tubes sent off site for mercury reclamation are classified as spent material and therefore meet the definition of a solid waste as defined in 40 CFR Section 261.2(c)(3), Table 1. If the mercury is removed from the ignitron tubes on site (e.g., material reclaimed from solid waste) and only the mercury from the tubes is sent off site for direct beneficial use or further refining, the mercury is a product, not a solid waste (see 40 CFR Section 261.3(c)(2) and 50 FR 634, January 4, 1985).

As I understand your letter, you disagree with this interpretation. It is your position that the ignitron tubes do not meet the definition of a spent material under 40 CFR Section 261.l(c)(1). You believe the ignitron tubes should be defined as a commercial chemical product and therefore, would not be a solid waste when sent off site for reclamation under 40 CFR Section 261.2(c)(3), Table 1. Your rationale is that neither the tube, or any component of the tube, has been contaminated. Therefore, the ignitron tube cannot be defined as a spent material.

In deciding the status of material being sent for reclamation, you have to look at what is actually physically being sent off site. In this case, it is the entire ignitron tube that is being sent off site. The purity of the mercury within the tube is not a consideration when determining whether the ignitron tube itself meets the definition of a spent material.

You further argue that even though the ignitron tube is burned out and can no longer serve its intended use, the tube's failure is not due to contamination of the mercury or any other part of the tube. Again, the condition of the mercury or the mercury itself has nothing to do with determining whether the ignitron tube is a solid waste by being a spent material. If the ignitron tube is considered a solid waste under 40 CFR Section 261.2(c), the unit would likely be a hazardous waste because the mercury component may exhibit the hazardous waste characteristic of EP toxicity.

In summary, the ignitron tube is the material that becomes spent and thus, would be considered a spent material. The presence of mercury in the ignitron tube is not a consideration when defining the tube as a solid waste. There is nothing in the RCRA regulations that would support defining an ignitron tube as a commercial chemical product. The non-functional ignitron tubes from the welding equipment meet the definition of spent material and are solid waste under Subtitle C of RCRA when sent for reclamation (mercury recovery). The tubes could be further defined as a hazardous waste if they exhibit a characteristic of hazardous waste (e.g., EP toxicity--D009).

If you have any additional questions, please feel free to call me a (202) 475-9715.

Sincerely

Stephen L. Cochran
Environmental Protection Specialist
Waste Characterization Branch

Attachment